

## DEPARTMENT OF BENEFIT PAYMENTS



March 29, 1974

ALL-COUNTY LETTER NO. 74-57

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: OVERPAYMENTS DUE TO ADMINISTRATIVE ERROR

REFERENCE:

County Letter No. 74-2 dated January 3, 1974, advised you of the Amended Writ of Mandate issued by Judge B. Abbott Goldberg in the case of Oliva v. Carleson. The Writ of Mandate prohibited enforcement of certain regulations regarding the recoupment of overpayments due to administrative error through the grant adjustment method.

On March 28, 1974, the Court of Appeal for the Third Appellate District issued a Writ of Supersedeas directing the Superior Court to stay enforcement of its judgment pending final determination of the appeal on the merits. The Superior Court today took action in accordance with the Writ of Supersedeas.

You are, therefore, advised that effective today the Writ of Mandate signed by Judge Goldberg has been stayed pending appeal, and the regulations providing for the recoupment of overpayments due to administrative error are again operative and are to be applied effective immediately. (The applicable regulation sections are set forth in County Letter No. 74-2.)

Attached is a copy of the Writ of Supersedeas issued by the Court of Appeal.

Sincerely,

*for*   
DAVID B. SWOAP  
Director

Attachment

036013

Superseded by ACL #77-15Issued 3-17-77

IN THE  
Court of Appeal of the State of California  
IN AND FOR THE  
THIRD APPELLATE DISTRICT

ROBERT OLIVA, an adult incompetent person,  
by VILLA F. OLIVA, his guardian ad litem;  
CATHERINE SARGENT, for themselves and on  
behalf of all other persons similarly  
situated,

Plaintiffs and Respondents,

3 Civil 14455

vs.

DAVID B. SWOAP, Director of the State  
Department of Social Welfare,  
Defendant and Appellant.

Sacramento #226578

WRIT OF SUPERSEDEAS

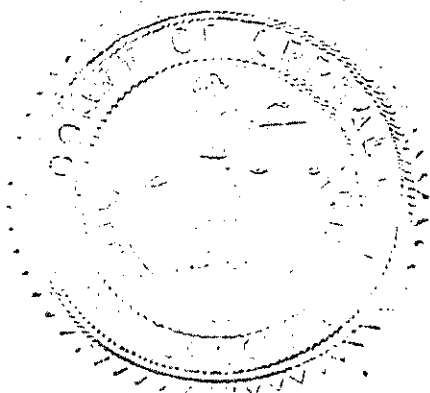
TO THE SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY  
OF SACRAMENTO and ROBERT OLIVA, an adult incompetent person, by  
VILLA F. OLIVA, his guardian ad litem, and CATHERINE SARGENT,  
for themselves and on behalf of all other persons similarly  
situated:

WHEREAS, DAVID B. SWOAP, Director of the State Department  
of Social Welfare, Defendant and Appellant herein, has filed  
his duly verified petition for writ of supersedeas and good  
cause appearing;

NOW, THEREFORE, you the said Superior Court of the State  
of California for the County of Sacramento are hereby directed  
to stay enforcement of your judgment entered on November 23,  
1973, and your amended judgment entered on December 27, 1973,  
until final determination of the pending appeal from said  
judgments or further order of this court.

WITNESS THE HONORABLE FRANK K. RICHARDSON, Presiding  
Justice of the Court of Appeal of the State of California, in  
and for the Third Appellate District.

ATTEST my hand and the seal of the court this 28th Day of  
March, 1974.



  
WILFRIED J. KRAMER, Clerk